IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 26154 of 2007(L)

PETITIONER:

TRANSPORT CORPORATION OF INDIA LIMITED, REPRESENTED BY ITS KANNUR BRANCH MANAGER, SUDHEER KUMAR DUBEY, T.K.1/627, THALIKAVU, KANNUR - 670 001.

BY ADV. SRI.P.M.PAREETH

RESPONDENTS:

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1. **KANNUR MUNICIPALITY REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE, KANNUR-2.**

2. **SECRETARY, KANNUR MUNICIPALITY, MUNICIPAL OFFICE, KANNUR.**

3. **MUNICIPAL COUNCIL, KANNUR MUNICIPALITY, MUNICIPAL OFFICE, KANNUR -2.**

BY ADV. SHRI K.K. CHANDRAN PILLAI, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/ 08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 26154 OF 2007 L

Dated this the 24th August, 2007

JUDGMENT

Petitioner challenges Ext.P2 and seeks a direction to pass orders on Ext.P3 Appeal and further seeks a declaration that the second respondent is incompetent to take coercive steps against the petitioner to close down its business at Kannur during the pendency of Ext.P3 Appeal since the petitioner has not exhausted its substantive right of appeal and revision under the Kerala Municipality Act.

2. Briefly put, the case of the petitioner is as follows: Petitioner is an established Transport Company engaged in parcel service. For the purpose of start an Office at Kannur, petitioner obtained a building on lease from one Shri Rajesh Govindan. Petitioner applied for a new licence under Section 447 of the Kerala Municipality Act before the second respondent, Secretary of the respondent Municipality. That came to be rejected by Ext.P2. Petitioner submitted Ext.P3

Appeal before the third respondent, Municipal Council. Petitioner submits that the second respondent is taking coercive steps to close down the business.

3. Petitioner has already approached the Appellate Forum against Ext.P2 and I am not inclined to interfere in the matter at this stage. Having heard the learned counsel appearing on behalf of the respondent Municipality also, the Writ Petition is disposed of directing the third respondent, Municipal Council to take up Ext.P3 appeal, hear the petitioner and take a decision in accordance with law, within a period of one month from the date of receipt of a copy of this Judgment. In the meantime, since the petitioner has moved an application seeking interim relief in the Appeal, there will be a further direction to the third respondent to take a decision on the application for interim relief in accordance with law, within a period of one week from the date of receipt of a copy of this Judgment.

kbk. **K. M. JOSEPH, JUDGE**